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# CHAPTER 7

## PERSONNEL

### **SECTION 7.100      EMPLOYEE PERSONNEL POLICIES ADOPTED**

The City of Round Rock Personnel Policies and Procedures manual dated November 9, 2000, as amended, a copy of which is on file in the office of the city secretary, is hereby adopted by reference as though it was copied fully herein.

(Ordinance No. 2282 of April 23, 1987 as amended by Ordinance No. G-93-12-09-9B of December 9, 1993 and Ordinance No. G-00-11-09-9B1 of November 9, 2000)

### **SECTION 7.200      EMPLOYEE COMPENSATION POLICIES ADOPTED**

The following employee compensation manuals and reports, as amended, copies of which are on file in the office of the city secretary, are hereby adopted by reference as though they were copied herein fully.

- (1) Employee Performance Appraisal System Manual dated February 9, 1987.
- (2) Classification Manual dated February 6, 1987.
- (3) Final Compensation Report dated February 9, 1987.

(Ordinance No. 2282 of April 23, 1987)

### **SECTION 7.300      POLICE RESERVE FORCE**

#### **7.301      POLICE RESERVE ESTABLISHED; MEMBERSHIP**

An auxiliary police force to be known as police reserve is hereby established. It shall be composed of personnel who have volunteered to join the organization and whose applications for membership have been accepted and who have complied with all the rules, regulations and orders provided for the conduct and control of the members thereof. It shall be composed of not more than twenty (20) members. The police reserve shall be separate and distinct from the police department of this city but shall be headed by the chief of police.

#### **7.302      CHIEF OF POLICE TO COMMAND POLICE RESERVE**

The members of the police reserve shall be under the authority control and Command of the chief of police of the City of Rock, subject to state law, provisions of the ordinances of the city, and of this section. Members shall be appointed from a list of eligible compiled as hereinafter provided.

### 7.303 QUALIFICATIONS FOR ELIGIBILITY

A list of eligibles, accompanied by a complete set of fingerprints or supplemented immediately by fingerprinting by the police division, shall be compiled. Such fingerprints shall be checked by the Identification Bureau to ascertain any criminal record of any such person. The application shall include the residence of the applicant. Each applicant shall be an actual resident of the State of Texas, and shall furnish satisfactory proof of good character, temperate habits, freedom from communicable diseases and physical ability to perform the duties of the position for which he seeks appointment. He shall furnish three (3) references. The application shall be on a form prescribed by the chief of police. Each person whose name is on the list of eligible shall subscribe to an oath that he will observe and obey the Constitution of the United States, the Constitution of this State, and the laws of this nation, this state and this city, and that he will carry out the duties of a member of the police reserve of this city to the best of his ability. Other qualifications for eligibility shall be the same as for members of the regular police officers.

### 7.304 DUTIES OF POLICE RESERVE

The duties of the police reserve, subject at all times to the direction, supervision and control of the chief of police, shall be to assist the regular members of the police department of this city in the enforcement of law and the maintenance of peace and order during periods of emergency designated by the chief of police. The chief may by order establish rules and regulations to govern the police reserve, to fix specific duties of its members, and he may command members of the police reserve to obey the instructions of regular police officers in carrying out their orders. The chief may prescribe other duties than those mentioned herein to be performed by the police reserve, not inconsistent with the provisions hereof.

### 7.305 IDENTIFICATION CARDS

An identification card or such other insignia or evidence of identity as the chief of police may prescribe shall be issued to each member, who must carry the card or other identification at all times while on duty, and must surrender them upon the termination of his membership. All commissions shall be good until revoked.

### 7.306 TERMINATION OF MEMBERSHIP

Membership of any person may be terminated by the chief of police at any time for any cause deemed sufficient by the chief of police. Any member may resign from the police reserve at any time, but it shall be his duty to notify the chief of police of his resignation.

### 7.307 CHIEF OF POLICE MAY DIMINISH OR EXPAND MEMBERSHIP

The chief of police may by order, diminish or expand the membership of the police reserve as exigency may require, within the limits hereinbefore established.

### 7.308 RULES AND REGULATIONS FOR RESERVE POLICE

#### (1) Carrying of Firearms

Members of the police reserve shall not carry firearms while on duty except upon the express written order of the chief of police.

#### (2) Breaking and Entering

No member of the police reserve shall break into or otherwise forcibly enter upon private property or enter the dwelling or habitation of another person without the consent of the member of the police department of this city who then and there requests his aid in the enforcement of the law.

#### (3) Power of Arrest

A member of the police reserve shall have the following powers of arrest and no others:

- (a) He may arrest an offender without a warrant when the offense is committed in his presence or within his view, if the offense is one classed as a felony, or as an offense against the public peace.
- (b) He may lend physical aid to any regular member of the police department in making any lawful arrest when authorized by the chief of police or requested by any regular member of the police department of this city.

### 7.309 PENALTIES FOR VIOLATION

In addition to the penalties provided by law, any violation of law under color of the performance of his duties as a member of the police reserve, and any breach of the rules and regulations established by the chief of police shall subject any member to summary expulsion and the fact thereof may be published at the order of the chief.

### 7.310 UNLAWFUL TO IMPERSONATE POLICE RESERVE MEMBER

It shall be a misdemeanor punishable by a fine as provided for in Section 1.600 of this Code of Ordinances for any person to wear, carry, or display a police reserve identification card or otherwise represent himself to be connected with the police reserve, unless he is in fact a member thereof in good standing.

### 7.311 UNIFORM AND BADGES OF POLICE RESERVE

The chief of police shall prescribe the uniform and badges for the members of the police reserve and direct the manner in which the same shall be worn. Any person other than

a member of said force who shall wear such uniform or badge shall be deemed guilty of a misdemeanor. Members of the police reserve shall wear uniforms and badges at all times while on duty.

(Ordinance No. 568 of October 12, 1978)

## **SECTION 7.400 TEXAS MUNICIPAL RETIREMENT SYSTEM**

The city council hereby exercises its option and elects to have the city participate in the Texas Municipal Retirement System.

(Ordinance No. 243 of October 8, 1973 and Ordinance No. 244 of October 8, 1973 as they have been amended by Ordinance No. 2140 of November 20, 1984, Ordinance No. 2152 of February 14, 1985, Ordinance No. 2445 of December 28, 1989, Ordinance No. 2446 of December 28, 1989, Ordinance No. 2447 of December 28, 1989 and Ordinance No. 2449 of January 11, 1990)

**EDITOR'S NOTE:** Ordinances providing for administration of the Texas Municipal Retirement System have not been codified herein. Such ordinances are on file in the office of the city secretary.

## **SECTION 7.500 POLICE DEPARTMENT DISCIPLINARY PROCEDURE**

### **7.501 PURPOSE AND APPLICABILITY**

- (1) The purpose of this Section is to establish procedures for administering certain disciplinary actions for Officers (as defined below) of the Round Rock Police Department.
- (2) This Section is not applicable to the Chief of Police or to employees of the Police Department who are not sworn police officers or to police officers who are in a probationary period.
- (3) This Section is not applicable to disciplinary actions involving written reprimands and suspensions of twenty-four (24) hours or less. This Section is applicable to Suspensions, Demotions, and Terminations, as those terms are defined below.

### **7.502 GENERAL POLICY**

It is the policy of the City to resolve employment problems by utilizing an informal process between the supervisor and the employee whenever possible. When this is not possible, it is recognized that a more formal disciplinary process may be necessary. Disciplinary actions not covered by this Section will be administered in accordance with the City's Human Resources Policies and Procedures Manual and the policies and procedures of the Police Department, as applicable. The Human Resources Policies and Procedures Manual will govern all employment issues not specifically covered in this Section.

#### 7.503 DEFINITIONS

- (1) Chief. “Chief” means the Chief of Police of the Round Rock Police Department.
- (2) Day. “Day” means a calendar day.
- (3) Demotion. “Demotion” means a change in duty assignment of an Officer from a position in one pay grade to a position in a lower pay grade.
- (4) Department. “Department” means the City of Round Rock Police Department.
- (5) Disciplinary Matrix. “Disciplinary Matrix” means the disciplinary matrix adopted, maintained and amended from time to time by the Chief.
- (6) HR Director. “HR Director” means the City’s Director of Human Resources.
- (7) Officer. “Officer” means a sworn police officer employed by the Department who has served for one year following the successful completion of the Department’s field training program.
- (8) Probationary Officer. “Probationary Officer” means a sworn police officer employed by the Department who has not completed the Department’s field training program or who has served for less than one year following the successful completion of the Department’s field training program.
- (9) Suspension. “Suspension” means a disciplinary action whereby an Officer is involuntarily relieved of duty for more than twenty-four hours without pay. Suspension, as used herein, does not mean being relieved of duty for twenty four hours or less or being relieved of duty without loss of pay.
- (10) Termination. “Termination” means a disciplinary action whereby an Officer is permanently relieved of duty.

#### 7.504 RELIEF OF DUTY PENDING DISCIPLINARY ACTION

An Officer may be relieved of duty pending disciplinary action or an internal affairs investigation. An Officer placed on relief of duty pending disciplinary action is without authority to exercise the duties and powers of a police officer. A supervisor is authorized to place an Officer on such leave without loss of pay. Only the Chief is authorized to place an Officer on such leave without pay.

#### 7.505 GROUND FOR DISCIPLINARY ACTION

- (1) An Officer may not be Suspended, Demoted, or Terminated except for just cause which shall be defined as one or more of the following grounds:
  - (a) conviction of a felony or other crime involving moral turpitude;

- (b) violations of the Round Rock Home Rule Charter;
  - (c) acts of incompetency;
  - (d) neglect of duty;
  - (e) discourtesy to the public or to a fellow employee while the Officer is in the line of duty;
  - (f) acts showing lack of good moral character;
  - (g) drinking intoxicants while on duty or intoxication while off duty;
  - (h) conduct prejudicial to good order;
  - (i) refusal or neglect to pay just debts;
  - (j) absence without leave;
  - (k) shirking duty or cowardice; or
  - (l) violation of an applicable Department rule, policy or order; or
  - (m) violation of an applicable City ordinance, rule or policy.
- (2) An Officer may not be Suspended, Demoted, or Terminated for an act that occurred earlier than the 180<sup>th</sup> day preceding the date the Officer is Suspended, Demoted or Terminated. If the act is allegedly related to criminal activity, the Officer may not be Suspended, Demoted, or Terminated for an act that is discovered earlier than the 180<sup>th</sup> day preceding the date the Officer is Suspended Demoted or Terminated. Nothing in this subsection is intended to preclude the City from considering prior disciplinary action as part of the disciplinary process.

#### 7.506 DISCIPLINARY ACTION REVIEW PANEL

- (1) Creation and Purpose. There is hereby created a Disciplinary Action Review Panel (“DARP”) consisting of four members. The DARP membership is not permanent but shall be appointed on a case-by-case basis as needed. The members of the DARP are appointed and administered by the HR Director. The DARP has two different functions, depending on what type of disciplinary action is being considered. One function is to hear appeals with respect to Suspensions and Demotions and the other function is to make non-binding recommendations to the Chief with respect to Terminations.
- (2) Members. The four members of the DARP will be as follows:
- (a) The Chairperson shall be an employee of the City holding the position one level below the Department Director in a department other than the Police Department;
  - (b) One member shall be a mid-level supervisor from the applicable Officer’s work group who is not a direct supervisor and does not have knowledge of the facts underlying the disciplinary action being reviewed;
  - (c) One member shall be a peer of the Officer being disciplined; and
  - (d) One member shall be citizen selected at random from an list of qualified citizen volunteers nominated annually by the Chief.

- (3) Appointment of Members. The HR Director shall appoint the members of the DARP in accordance with the following rules.
- (a) Employees in the Officer's chain of command are not eligible to serve;
  - (b) The Officer's peer shall not be currently assigned to the Officer's work group; and
  - (c) Employees who have had any disciplinary action taken against them within the immediately prior 12 months are not eligible to serve.
- (4) Officer's Right to Object to Member. The Officer shall have a right to express his/her objection and to request the removal of a DARP member on the grounds of a personal conflict or bias. The decision of the HR Director on such a request shall be final and non-appealable.
- (5) Members' Responsibilities. The members of the DARP shall have the following responsibilities and obligations:
- (a) Each member shall advise the HR Director if he/she believes that there exist a personal conflict or bias with respect to a particular disciplinary action;
  - (b) Each member shall maintain confidentiality of all facts and circumstances concerning the disciplinary action; and
  - (c) Each member shall make his/her determination based on the testimony and evidence presented and not on bias, prejudice or extraneous matters.
- (6) Chairperson Duties and Responsibilities. The Chairperson of the DARP shall have the following duties and responsibilities:
- (a) To preside over the hearing and to ensure that the Officer is afforded a fair and impartial hearing and that each DARP member has an opportunity to participate;
  - (b) To determine the witnesses to be heard, the documentary evidence to be considered, and to resolve any procedural issues;
  - (c) To clear the hearing room of all non-DARP members before and during the deliberation;
  - (d) To moderate the deliberation to ensure that each DARP member is allowed an adequate opportunity to express views and concerns;
  - (e) To ensure that the DARP's recommendation is based on the relevant evidence allowed at the hearing and not on extraneous or irrelevant matters;



- (f) To prepare a written summary of the DARP's recommendation determined by a majority vote of the DARP members and to secure the signature of the DARP members to the written recommendation. In the event of a tie vote, the DARP will so inform the Chief without making a recommendation; and
  - (g) To forward the written recommendation to the Chief within three (3) days of the DARP's decision.
- (7) HR Director Duties and Responsibilities. The HR Director shall have the following duties and responsibilities:
- (a) To appoint the members of the DARP within 15 days of receipt of an Officer's notice of appeal from a Suspension or Demotion or within 10 days of receipt of the Chief's notice that Termination of an Officer is being considered;
  - (b) To arrange a hearing location and scheduling the hearing of the DARP within 30 calendar days of receipt of an Officer's notice of appeal from a Suspension or Demotion or within 20 days of receipt of the Chief's notice that Termination of an Officer is being considered; and
  - (c) To prepare and distribute a notice of a hearing at least 7 days prior to a DARP hearing. The notice shall be distributed to the Chief, the Officer, the Officer's supervisor, and the City Attorney.
- (8) DARP Procedures. All hearings of the DARP shall be held in accordance with the following rules and procedures:
- (a) DARP hearings are not opened to the public and they shall not be recorded. The only persons having a right to attend a DARP hearing is the Officer being disciplined, the Officer's personal or legal representative, the Officer's supervisor, and a representative of the City Attorney's office.
  - (b) The DARP shall consider all facts, testimony, and documents that it considers relevant to the disciplinary action being reviewed. The DARP may request information from individuals and request documents for its review. The DARP shall not be bound by traditional or legal rules of evidence, but the DARP is expected to base its decision on the evidence heard at the hearing and not anything that occurs outside the hearing.
  - (c) The Officer is entitled to examine and review any documents, papers, books, or other evidence considered by the DARP regarding the disciplinary action being reviewed.
  - (d) The Officer shall be granted a reasonable amount of time to present his/her evidence and to make arguments related to the disciplinary action being reviewed.

- (e) The DARP shall render its written decision based upon the preponderance of the evidence presented at the hearing.
- (f) When possible, the DARP will render its written decision immediately and will notify the Officer at the conclusion of the hearing and forward the written decision to the Chief. If the DARP is not able to render a decision immediately, the Officer and other parties will be notified of the time and place the DARP will reconvene to render its decision.

#### 7.507 SUSPENSION AND DEMOTION

Before an Officer may be Suspended or Demoted, the Officer's supervisor shall make a written recommendation regarding such action to the Chief. If the Chief determines that it is appropriate to impose such discipline, the Officer's supervisor shall give written notice thereof to the Officer. The written notice to the Officer shall include a summary explanation of the facts and circumstances, and copies of any documents, which were considered in establishing the grounds for the Suspension or Demotion. Officer may appeal such decision by giving written notice thereof to the Chief, which notice must be received by the Chief no later than three (3) calendar days following the imposition of the discipline. Upon receipt of the written notice of appeal, the Chief will notify the HR Director who will proceed to impanel the DARP to hear the appeal. The DARP will meet, hear evidence and render its recommendation as set forth above. The Chief will consider the recommendation of the DARP, but the final decision regarding discipline remains with the Chief. If Chief's decision is to not impose either Suspension or Demotion the decision is final and not subject to further appeal. If the Chief's decision is to impose either Suspension or Demotion and the Officer is not satisfied with the decision, the Officer may appeal to a Hearing Officer as set forth in subsection 7.509 below. The Chief's decision becomes final if no notice of appeal is filed in accordance with 7.509.

#### 7.508 TERMINATION

Before an Officer may be Terminated, the Officer's supervisor shall make a written recommendation regarding such action to the Chief. If the Chief determines that Termination is not appropriate, the Chief will refer the matter back to the supervisor with appropriate explanation. If the Chief determines that it is appropriate to consider Termination, the Chief will notify in writing the affected Officer and the HR Director, who will proceed to impanel the DARP. The written notice to the Officer and the HR Director shall include a summary explanation of the facts and circumstances, and copies of any documents, which were considered in establishing the grounds for the Termination. After the DARP convenes to hear the matter, it will forward its written recommendation to the Chief. After considering the recommendation of the DARP, the Chief will make his decision to impose Termination, impose an alternative disciplinary action, or impose no disciplinary action. If Chief's decision is not to impose either Suspension, Demotion, or Termination, the decision is final and not subject to further appeal. If the Chief's decision is to impose either Suspension, Demotion or Termination and the Officer is not satisfied with the decision, the Officer may appeal to a Hearing Officer as set forth in subsection 7.509 below. The Chief's decision becomes final if no notice of appeal is filed in accordance with 7.509.

7.509 APPEALS TO A HEARING EXAMINER

- (1) Notice of Appeal. If the Chief determines to impose a disciplinary action that includes Suspension, Demotion, or Termination, and the Officer is not satisfied with such decision, the Officer may elect to appeal the decision to a Hearing Examiner. In order to exercise the right of appeal, the Officer shall file with the Chief a written notice of appeal on forms provided by the City within three (3) calendar days of being notified of the Chief's decision to impose Suspension, Demotion, or Termination. The written notice of appeal shall not be effective unless the Officer agrees to waive and release any and all rights the Officer might have to appeal the Chief's decision to a court of law.
- (2) Selection of Hearing Examiner. Upon receipt of the written notice of appeal, the Chief shall notify the HR Director. The HR Director and the Officer shall attempt to agree on the selection of a Hearing Examiner on or before 10 days after the date the notice of appeal is filed. If no agreement is reached within the specified time, The HR Director shall request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. The Officer and the HR Director may agree on one of the seven arbitrators on the list. If they do not agree within 25 days after the date the notice of appeal was filed, the Officer and the HR Director shall on the 25<sup>th</sup> day after the appeal was filed alternate striking a name from the list and the name remaining is the Hearing Examiner. In the event that the 25<sup>th</sup> day falls on a Saturday, Sunday, or a legal holiday, then the parties shall strike the list on the next work day. The parties shall agree on a date for the hearing that is within the time period prescribed in paragraph (3) below.
- (3) Hearing Examiner's Jurisdiction and Authority. The Hearing Examiner has jurisdiction to hear appeals from a decision of the Chief to Suspend, Demote or Terminate an Officer. Upon consideration of the testimony, evidence, arguments, and briefs, the Hearing Examiner may affirm, modify, or reverse the decision of the Chief. If the Hearing Examiner determines to modify the decision, the Hearing Examiner's authority to so modify is limited to the level of discipline outlined in the Disciplinary Matrix.
- (4) Appeal Hearing. The appeal hearing shall begin as soon as possible, but in any event within 60 days after the date the appeal is filed. If the hearing is not begun within 60 days after the date the appeal is filed, the Suspension, Demotion or Termination is upheld and the appeal is withdrawn if the Officer is not ready to proceed and the appeal is sustained if the Chief is not ready to proceed. In computing the 60-day period, a period of delay not to exceed 30 calendar days because of a continuance granted at the request of the Chief or the Officer on good cause being shown, or because of the unavoidable unavailability of the Hearing Examiner on the date of the hearing. In no event may a Hearing Examiner grant a continuance of more than 30 days in a hearing involving Termination. A Hearing Examiner may grant a continuance beyond the 30-day period upon good cause being shown in a hearing involving Suspension or Demotion unless the Officer has another disciplinary action pending.

- (5) Subpoenas. The Hearing Examiner shall have the power to issue subpoenas.
- (6) Expedited Procedure. The parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the Hearing Examiner shall render a decision on the appeal within 10 days after the date the hearing closed.
- (7) Non-expedited Procedure. In an appeal that does not involve an expedited hearing procedure, the Hearing Examiner shall make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the briefs are filed. The Hearing Examiner's inability to meet the time requirements imposed by this paragraph does not affect the Hearing Examiner's jurisdiction, the validity of the disciplinary action, or the Hearing Examiner's final decision.
- (8) Final Decision. The Hearing Examiner's decision is final and binding on all parties. No party shall have the right to appeal a Hearing Examiner's decision except as provided in paragraph (10) below.
- (9) Fees and Expenses. The Hearing Examiner's fees and expenses are shared equally by the Officer and the City. The costs of a witness are paid by the party who calls the witness.
- (10) District Court Appeal. A district court may hear an appeal of a Hearing Examiner's award only on the grounds that the Hearing Examiner was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. If the basis for the appeal of the Hearing Examiner's award is based on the grounds that the Hearing Examiner was without jurisdiction or exceeded its jurisdiction, the petition must be filed in district court within 10 days of the Hearing Examiner's decision. An appeal must be brought in a district court in Williamson County, Texas.

#### 7.510 TIME DEADLINES

The Officer and the Chief may modify or extend any deadline provided for herein by mutual agreement in writing. The failure of the Officer to comply with any of the deadlines provided for herein shall result in a forfeiture of the Officer's right to appeal and the Chief's decision will be considered final.

#### 7.511 DEPARTMENTAL RULES AND PROCEDURES

The Police Department and the Human Resources Department is authorized to adopt departmental rules and procedures to implement this Section that are not inconsistent with the terms and provisions herein.

(Ordinance No. G-02-06-13-13A1 of June 13, 2002 as amended by Ordinance No. G-03-06-12-9B1 of June 12, 2003)

7.512 AMENDMENTS TO SECTION 7.500

Any ordinance which amends this Section 7.500 shall not be finally passed until all of the following have occurred:

- (a) Notice of the proposed amendment shall be posted on the official Police Department bulletin board for at least fourteen (14) days prior to the first public hearing to be held on the proposed amendment. The notice shall also include the date, time, and place of the first public hearing required in paragraph (b) below;
- (b) At least two public hearings on the proposed amendment shall be held by the City Council at regular Council meetings. The first reading of the ordinance shall not occur at the same meeting as the first public hearing. The second public hearing may be held at the same meeting as the first reading of the ordinance; and
- (c) The ordinance must be read at two separate regular meetings of the City Council. The City Council may not dispense with the second reading of the ordinance.